

# **Title 19 Chapter 6 HAZARDOUS SUBSTANCES**

## **PART 7 USED OIL MANAGEMENT ACT**

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**19-6-701. Short title.** This act is known as the "Used Oil Management Act."

**19-6-702. Legislative findings.** (1) The Legislature finds millions of gallons of used oil are generated each year in Utah, and this oil is:

- (a) a valuable petroleum resource that can be recycled; and
  - (b) in spite of the potential for recycling, significant quantities of used oil are wastefully disposed of or improperly used by means that pollute the water, land, and air, and endanger the public health, safety, and welfare.
- (2) The Legislature finds used oil should be collected, treated, and reused in a manner that conserves energy and does not present a hazard to public health or the environment.
- (3) The Legislature finds in light of the harmful consequences that can result from the improper disposal and use of used oil, and its value as a resource, the collection, recycling, and reuse of used oil is in the public interest.

**19-6-703. Definitions.**(1) "Board" means the Solid and Hazardous Waste Control Board created in Section

**19-1-106.**

- (2) "Commission" means the State Tax Commission.
- (3) "Department" means the Department of Environmental Quality created in Title 19, Chapter 1, General Provisions.
- (4) "Division" means the Division of Solid and Hazardous Waste as created in Section **19-1-105**.
- (5) "DIY" means do it yourself.
- (6) "DIYer" means a person who generates used oil through household activities, including maintenance of personal vehicles.
- (7) "DIYer used oil" means used oil a person generates through household activities, including maintenance of personal vehicles.
- (8) "DIYer used oil collection center" means any site or facility that accepts or aggregates and stores used oil collected only from DIYers.
- (9) "Executive secretary" means the executive secretary of the board.
- (10) "Hazardous waste" means any substance defined as hazardous waste under Title 19, Chapter 6, Hazardous Substances.
- (11) "Lubricating oil" means the fraction of crude oil or synthetic oil used to reduce friction in an industrial or mechanical device. Lubricating oil includes rerefined oil.
- (12) "Lubricating oil vendor" means the person making the first sale of a lubricating oil in Utah.
- (13) "Manifest" means the form used for identifying the quantity and composition and the origin, routing, and destination of used oil during its transportation from the point of collection to the point of storage, processing, use, or disposal.
- (14) "Off-specification used oil" means used oil

that exceeds levels of constituents and properties as specified by board rule and consistent with 40 CFR 279, Standards for the Management of Used Oil.

(15) "On-specification used oil" means used oil that does not exceed levels of constituents and properties as specified by board rule and consistent with 40 CFR 279, Standards for the Management of Used Oil.

(16) (a) "Processing" means chemical or physical operations under Subsection (b) designed to produce from used oil, or to make used oil more amenable for production of:

- (i) gasoline, diesel, and other petroleum derived fuels;
  - (ii) lubricants; or
  - (iii) other products derived from used oil.
- (b) Processing includes:
- (i) blending used oil with virgin petroleum products;
  - (ii) blending used oils to meet fuel specifications;
  - (iii) filtration;
  - (iv) simple distillation;
  - (v) chemical or physical separation; and
  - (vi) rerefining.

(17) "Recycled oil" means oil reused for any purpose following its original use, including:

- (a) the purpose for which the oil was originally used; and
- (b) used oil processed or burned for energy recovery.

(18) "Rerefining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition varies with column operation and feedstock.

(19) "Used oil" means any oil, refined from crude oil or a synthetic oil, that has been used and as a result of that use is contaminated by physical or chemical impurities.

(20) (a) "Used oil aggregation point" means any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons.

(b) A used oil aggregation point may also accept oil from DIYers.

(21) "Used oil burner" means a person who burns used oil for energy recovery.

(22) "Used oil collection center" means any site or facility registered with the state to manage used oil and that accepts or aggregates and stores used oil collected from used oil generators, other than DIYers, who are regulated under this part and bring used oil to the collection center in shipments of no more than 55 gallons and under the provisions of this part. Used oil collection centers may accept DIYer used oil also.

(23) "Used oil fuel marketer" means any person who:

- (a) directs a shipment of off-specification used oil

from its facility to a used oil burner; or

(b) first claims the used oil to be burned for energy recovery meets the used oil fuel specifications of 40 CFR 279, Standards for the Management of Used Oil, except when the oil is to be burned in accordance with rules for on-site burning in space heaters in accordance with 40 CFR 279.

(24) "Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

(25) "Used oil handler" means a person generating used oil, collecting used oil, transporting used oil, operating a transfer facility or aggregation point, processing or rerefining used oil, or marketing used oil.

(26) "Used oil processor or rerefiner" means a facility that processes used oil.

(27) "Used oil transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days.

(28) (a) "Used oil transporter" means the following persons unless they are exempted under Subsection (28)(b):

- (i) any person who transports used oil;
- (ii) any person who collects used oil from more than one generator and transports the collected oil;
- (iii) except as exempted under Subsection (28)(b)(i), (ii), or (iii), any person who transports collected DIYer used oil from used oil generators, collection centers, aggregation points, or other facilities required to be permitted or registered under this part and where household DIYer used oil is collected; and

(iv) owners and operators of used oil transfer facilities.

(b) "Used oil transporter" does not include:

- (i) persons who transport oil on site;
- (ii) generators who transport shipments of used oil totalling 55 gallons or less from the generator to a used oil collection center as allowed under 40 CFR 279.24, Off-site Shipments;

(iii) generators who transport shipments of used oil totalling 55 gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as allowed under 40 CFR 279.24, Off-site Shipments;

(iv) persons who transport used oil generated by DIYers from the initial generator to a used oil generator, used oil collection center, used oil aggregation point, used oil processor or rerefiner, or used oil burner subject to permitting or registration under this part; or

(v) railroads that transport used oil and are regulated under 49 U.S.C. Subtitle V, Rail Programs, and 49 U.S.C. 5101 et seq., federal Hazardous Materials Transportation Uniform Safety Act.

**19-6-704. Powers and duties of the board.** (1) The board shall make rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as necessary to administer

this part and to comply with 40 CFR 279, Standards for the Management of Used Oil, to ensure the state's primacy to manage used oil under 40 CFR 279. For these purposes the board shall:

(a) conduct adjudicative hearings as required in this part under Title 63, Chapter 46b, Administrative Procedures Act;

(b) establish by rule conditions and procedures for registration and revocation of registration as a used oil collection center, used oil aggregation point, or DIYer used oil collection center;

(c) provide by rule that used oil aggregation points that do not accept DIYer used oil are required to comply with used oil collection standards under this part, but are not required to be permitted or registered;

(d) establish by rule conditions and fees required to obtain permits and operate as used oil transporters, used oil transfer facilities, used oil processors and rerefiners, and used oil fuel marketers;

(e) establish by rule the amount of liability insurance or other financial responsibility the applicant shall have to qualify for a permit under Subsection (1)(d);

(f) establish by rule the form and amount of reclamation surety required for reclamation of any site or facility required to be permitted under this part;

(g) after public notice and opportunity for a public hearing, hear and act on permit issues appealed under Subsection 19-6-712(2);

(h) establish by rule standards for tracking, analysis, and recordkeeping regarding used oil subject to regulation under this part, including:

- (i) manifests for handling and transferring used oil;
- (ii) analyses necessary to determine if used oil is on-specification or off-specification;
- (iii) records documenting date, quantities, and character of used oil transported, processed, transferred, or sold;

(iv) records documenting persons between whom transactions under this subsection occurred; and

(v) exemption of DIYer used oil collection centers from this subsection except as necessary to verify volumes of used oil picked up by a permitted transporter and the transporter's name and federal EPA identification number;

(i) authorize inspections and audits of facilities, centers, and operations subject to regulation under this part;

(j) establish by rule standards for:

- (i) used oil generators;
- (ii) used oil collection centers;
- (iii) DIYer used oil collection centers;
- (iv) aggregation points;
- (v) curbside used oil collection programs;
- (vi) used oil transporters;
- (vii) used oil transfer facilities;
- (viii) used oil burners;
- (ix) used oil processors and rerefiners; and
- (x) used oil marketers;

(k) establish by rule standards for determining

on-specification and off-specification used oil and specified mixtures of used oil, subject to Section **19-6-707** regarding rebuttable presumptions;

(l) establish by rule standards for closure, remediation, and response to releases involving used oil; and

(m) establish a public education program to promote used oil recycling and use of used oil collection centers.

(2) The board may:

(a) hold hearings relating to any aspect of or matter in the administration of this part and compel the attendance of witnesses and the production of documents and other evidence, administer oaths and take testimony, and receive evidence as necessary;

(b) require retention and submission of records required under this part; and

(c) require audits of records and recordkeeping procedures required under this part and rules made under this part, except that audits of records regarding the fee imposed and collected by the commission under Sections **19-6-714** and **19-6-715** are the responsibility of the commission under Section **19-6-716**.

**19-6-705. Powers and duties of the executive secretary.**(1) The executive secretary shall:

(a) administer and enforce the rules and orders of the board;

(b) issue and revoke registration numbers for DIYer used oil collection centers and used oil collection centers;

(c) after public notice and opportunity for a public hearing:

(i) issue or modify a permit under this part;

(ii) deny a permit when the executive secretary finds the application is not complete; and

(iii) revoke a permit issued under this section upon a finding the permit holder has failed to ensure compliance with this part;

(d) (i) coordinate with federal, state, and local government, and other agencies, including entering into memoranda of understanding, to ensure effective regulation of used oil under this part, minimize duplication of regulation, and encourage responsible recycling of used oil; and

(ii) as the department finds appropriate to the implementation of this part, enter into contracts with local health departments to carry out specified functions under this part and be reimbursed by the department in accordance with the contract;

(e) require forms, analyses, documents, maps, and other records as the executive secretary finds necessary to permit and inspect an operation regulated under this part;

(f) establish a toll-free telephone line to provide information to the public regarding management of used oil and locations of used oil collection centers; and

(g) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of

the functions of this part.

(2) The executive secretary may:

(a) authorize any employee of the division to enter any facility regulated under this part at reasonable times and upon presentation of credentials for the purpose of inspection, audit, or sampling of the used oil site or facility, records, operations, or product;

(b) direct a person whose activities are regulated under this part to take samples for a stated purpose and cause them to be analyzed at that person's expense; and

(c) as authorized by the board under this part, enforce board rules by issuing orders which the board may subsequently amend or revoke.

**19-6-706. Disposal of used oil -- Prohibitions.** (1) (a) Except as authorized by the board or exempted in this section, a person may not place, discard, or otherwise dispose of used oil:

(i) in any solid waste treatment, storage, or disposal facility operated by a political subdivision or a private entity, except as authorized for the disposal of used oil that is hazardous waste under state law;

(ii) in sewers, drainage systems, septic tanks, surface or ground waters, watercourses, or any body of water; or

(iii) on the ground.

(b) A person who unknowingly disposes of used oil in violation of Subsection (1)(a)(i) is not guilty of a violation of this section.

(2) (a) A person may dispose of an item or substance that contains de minimis amounts of oil in disposal facilities under Subsection (1)(a)(i) if:

(i) to the extent reasonably possible all oil has been removed from the item or substance; and

(ii) no free flowing oil remains in the item or substance.

(b) (i) A nonterne plated used oil filter complies with this section if it is not mixed with hazardous waste and the oil filter has been gravity hot-drained by one of the following methods:

(A) puncturing the filter antidrain back valve or the filter dome end and gravity hot-draining;

(B) gravity hot-draining and crushing;

(C) dismantling and gravity hot-draining; or

(D) any other equivalent gravity hot-draining method that will remove used oil from the filter at least as effectively as the methods listed in this subsection.

(ii) As used in this subsection, "gravity hot-drained" means drained for not less than 12 hours near operating temperature but above 60 degrees Fahrenheit.

(3) A person may not mix or commingle used oil with the following substances, except as incidental to the normal course of processing, mechanical, or industrial operations:

(a) solid waste that is to be disposed of in any solid waste treatment, storage, or disposal facility, except as authorized by the board under this chapter; or

(b) any hazardous waste so the resulting mixture may not be recycled or used for other beneficial purpose as authorized under this part.

(4) (a) This section does not apply to releases to land or water of de minimis quantities of used oil, except:

(i) the release of de minimis quantities of used oil is subject to any regulation or prohibition under the authority of the department; and

(ii) the release of de minimis quantities of used oil is subject to any rule made by the board under this part prohibiting the release of de minimis quantities of used oil to the land or water from tanks, pipes, or other equipment in which used oil is processed, stored, or otherwise managed by used oil handlers, except wastewater under Subsection 19-6-708(2)(j).

(b) As used in this subsection, "de minimis quantities of used oil:"

(i) means small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations; and

(ii) does not include used oil discarded as a result of abnormal operations resulting in substantial leaks, spills, or other releases.

(5) Used oil may not be used for road oiling, dust control, weed abatement, or other similar uses that have the potential to release used oil in the environment, except in compliance with Section 19-6-711 and board rule.

(6) (a) (i) Facilities in existence on July 1, 1993, and subject to this section may apply to the executive secretary for an extension of time beyond that date to meet the requirements of this section.

(ii) The executive secretary may grant an extension of time beyond July 1, 1993, upon a finding of need under Subsection (b) or (c).

(iii) The total of all extensions of time granted to one applicant under this subsection may not extend beyond January 1, 1995.

(b) The executive secretary upon receipt of a request for an extension of time may request from the facility any information the executive secretary finds reasonably necessary to evaluate the need for an extension. This information may include:

(i) why the facility is unable to comply with the requirements of this section on or before July 1, 1993;

(ii) the processes or functions which prevent compliance on or before July 1, 1993;

(iii) measures the facility has taken and will take to achieve compliance; and

(iv) a proposed compliance schedule, including a proposed date for being in compliance with this section.

(c) Additional extensions of time may be granted by the executive secretary upon application by the facility and a showing by the facility that:

(i) the additional extension is reasonably necessary; and

(ii) the facility has made a diligent and good faith effort to comply with this section within the time frame of the

prior extension.

**19-6-707. Rebuttable presumption regarding used oil mixtures.** (1) (a) Used oil containing more than 1000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 CFR 261, Subpart D.

(b) This presumption may be rebutted by demonstrating the used oil does not contain hazardous waste, such as by using the analytical method from SW-846, Edition III, to show the used oil does not contain significant concentrations of halogenated hazardous constituents as listed by board rule.

(2) (a) The rebuttable presumption under Subsection (1) does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed through a tolling agreement to reclaim the metalworking oils or fluids.

(b) The rebuttable presumption under Subsection (1) does apply to metalworking oils or fluids if the oils or fluids are recycled in any other manner or are disposed.

(3) (a) The rebuttable presumption under Subsection (1) does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units when the CFCs are destined for reclamation.

(b) The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

**19-6-708. Registration and permit exemptions.** (1)

The following persons are subject to Section 19-6-706, but are not subject to regulation as a registered or permitted site or facility under this part:

(a) generators of DIYer used oil; and

(b) farmers who generate in a calendar year an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm.

(2) The following are subject to rules made by the board as necessary to obtain and maintain primacy of the state used oil program under 40 C.F.R. 279, Standards for the Management of Used Oil, but are not subject to any other provision of this part:

(a) mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this part once the used oil and diesel fuel have been mixed, but prior to mixing, the used oil is subject to this part;

(b) used oil transporters and used oil burners conducting incidental processing operations that occur during the normal course of used oil management prior to transportation or burning;

(c) on-specification or off-specification used oil, after it is delivered, as documented by manifest, to a burner authorized to operate by the board or this part and rules made under this part;

(d) used oil burners authorized by the board to burn on-specification or off-specification used oil;

(e) used oil placed directly into a crude oil or natural gas pipeline, after the used oil is introduced into the pipeline;

(f) used oil generated on vessels due to normal shipboard operations is not subject to this part until it is transported ashore;

(g) rerefining distillation bottoms used as feedstock to manufacture asphalt products;

(h) materials reclaimed from used oil, used beneficially, and not burned for energy recovery or used in a manner constituting disposal;

(i) materials derived from used oil that are disposed of or used in a manner constituting disposal, but are subject to regulation under this chapter if the materials are identified as hazardous waste;

(j) wastewater containing a de minimis amount of used oil, as defined in Subsection (3);

(k) used oil contaminated with polychlorinated biphenyls (PCBs), if it is subject to regulation under 40 CFR 761, Toxic Substances Control Act;

(l) used oils that are a hazardous waste under this chapter and may not be recycled; and

(m) used oils that are not hazardous waste under this chapter and cannot be recycled under this part.

(3) (a) As used in Subsection (2)(j), "de minimis quantities of used oil" means:

(i) small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations; or

(ii) small amounts of oil lost to the wastewater treatment system or unit during washing or draining operations.

(b) "De minimis quantities of used oil" does not include used oil discarded as a result of abnormal operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

**19-6-709. Reclamation of site or facility.** (1) The owner or operator of any of the following operations shall reclaim the site of the operation to a post-operations land use, as approved by the board in coordination with the department, when the operation ceases or the permit is revoked:

(a) DIYer used oil collection center;

(b) used oil collection center;

(c) used oil aggregation point;

(d) used oil transfer facility; or

(e) used oil processing or rerefining facility.

(2) DIYer used oil collection centers, used oil collection centers, and used oil aggregation points are not required to post a reclamation surety under this part, but are subject to the reclamation requirements of this section.

(3) Facilities and sites required to be permitted under this part shall post a reclamation surety in a form and amount required by board rule prior to issuance of a permit.

#### **19-6-710. Registration and permitting of used oil**

**handlers.**(1) (a) A person may not operate a DIYer used oil collection center or used oil collection center without holding a registration number issued by the executive secretary.

(b) The application for registration shall include the following information regarding the DIYer used oil collection center or used oil collection center:

(i) the name and address of the operator;

(ii) the location of the center;

(iii) whether the center will accept DIYer used oil;

(iv) the type of containment or storage to be used;

(v) the status of business, zoning, and other applicable licenses and permits required by federal, state, and local governmental entities;

(vi) emergency spill containment plan;

(vii) proof of liability insurance or other means of financial responsibility in an amount determined by board rule for any liability that may be incurred in collecting or storing the used oil, unless waived by the board; and

(viii) any other information the executive secretary finds necessary to ensure the safe handling of used oil.

(c) The owner or operator of the center shall notify the executive secretary in writing of any changes in the information submitted to apply for registration within 20 days of the change.

(d) To be reimbursed under Section **19-6-717** for collected DIYer used oil, the operator of the DIYer used oil collection center shall maintain and submit to the executive secretary records of volumes of DIYer used oil picked up by a permitted used oil transporter, the dates of pickup, and the name and federal EPA identification number of the transporter.

(2) (a) A person may not act as a used oil transporter or operate a transfer facility without holding a permit issued by the executive secretary.

(b) The application for a permit shall include the following information regarding acting as a transporter or operating a transfer facility:

(i) the name and address of the operator;

(ii) the location of the transporter's base of operations or the location of the transfer facility;

(iii) maps of all transfer facilities;

(iv) the methods to be used for collecting, storing, and delivering used oil;

(v) the methods to be used to determine if used oil received by the transporter or facility is on-specification or off-specification;

(vi) the type of containment or storage to be used;

(vii) the methods of disposing of the waste by-products;

(viii) the status of business, zoning, and other applicable licenses and permits required by federal, state, and local government entities;

(ix) emergency spill containment plan;

(x) proof of liability insurance or other means of financial responsibility in an amount determined by board rule for any liability that may be incurred in collecting,

transporting, or storing the used oil;

(xi) proof of form and amount of reclamation surety for any facility used in conjunction with transportation or storage of used oil; and

(xii) any other information the executive secretary finds necessary to ensure the safe handling of used oil.

(c) The owner or operator of the facility shall notify the executive secretary in writing of any changes in the information submitted to apply for a permit within 20 days of the change.

(3) (a) A person may not operate a used oil processing or rerefining facility without holding a permit issued by the executive secretary.

(b) The application for a permit shall include the following information regarding the used oil processing or rerefining facility:

(i) the name and address of the operator;

(ii) the location of the facility;

(iii) a map of the facility;

(iv) methods to be used to determine if used oil is on-specification or off-specification;

(v) the type of containment or storage to be used;

(vi) the grades of oil to be produced;

(vii) the methods of disposing of the waste by-products;

(viii) the status of business, zoning, and other applicable licenses and permits required by federal, state, and local governmental entities;

(ix) emergency spill containment plan;

(x) proof of liability insurance or other means of financial responsibility in an amount determined by board rule for any liability that may be incurred in processing or rerefining used oil;

(xi) proof of form and amount of reclamation surety; and

(xii) any other information the executive secretary finds necessary to ensure the safe handling of used oil.

(c) The owner or operator of the facility shall notify the executive secretary in writing of any changes in the information submitted to apply for a permit within 20 days of the change.

(4) (a) A person may not act as a used oil fuel marketer without holding a registration number issued by the executive secretary.

(b) The application for a registration number shall include the following information regarding acting as a used oil fuel marketer:

(i) the name and address of the marketer;

(ii) the location of any facilities used by the marketer to collect, transport, process, or store used oil subject to separate permits under this part;

(iii) the status of business, zoning, and other applicable licenses and permits required by federal, state, and local governmental entities, including any registrations or permits required under this part to collect, process, transport, or store used oil; and

(iv) any other information the executive secretary

finds necessary to ensure the safe handling of used oil.

(c) The owner or operator of the facility shall notify the executive secretary in writing of any changes in the information submitted to apply for a permit within 20 days of the change.

(5) (a) Unless exempted under Subsection **19-6-708**(2), a person may not burn used oil for energy recovery without holding a permit issued by the executive secretary or an authorization from the department.

(b) The application for a permit shall include the following information regarding the used oil burning facility:

(i) the name and address of the operator;

(ii) the location of the facility;

(iii) methods to be used to determine if used oil is on-specification or off-specification;

(iv) the type of containment or storage to be used;

(v) the type of burner to be used;

(vi) the methods of disposing of the waste by-products;

(vii) the status of business, zoning, and other applicable licenses and permits required by federal, state, and local governmental entities;

(viii) emergency spill containment plan;

(ix) proof of liability insurance or other means of financial responsibility in an amount determined by board rule for any liability that may be incurred in processing or rerefining used oil;

(x) proof of form and amount of reclamation surety for any facility receiving and burning used oil; and

(xi) any other information the executive secretary finds necessary to ensure the safe handling of used oil.

(c) The owner or operator of the facility shall notify the executive secretary in writing of any changes in the information submitted to apply for a permit within 20 days of the change.

#### **19-6-711. Application of used oil to the land --**

**Limitations.** (1) A person may not apply used oil to the land as a dust or weed suppressant or for other similar applications to the land unless the person has obtained:

(a) written authorization as required under this chapter; and

(b) a permit from the executive secretary.

(2) The applicant for a permit under this section shall demonstrate:

(a) the used oil is not mixed with any hazardous waste;

(b) the used oil does not exhibit any hazardous characteristic other than ignitability; and

(c) how the applicant will minimize the impact on the environment of the use of used oil as a dust or weed suppressant or for other similar applications to the land.

(3) Prior to acting on the application, the executive secretary shall provide public notice of the application and shall provide opportunity for public comment under Section

#### **19-6-712.**

**19-6-712. Issuance of permits -- Public comments and hearing.** (1) In considering permit applications under this part, the executive secretary shall:

- (a) ensure the application is complete prior to acting on it;
  - (b) publish notice of the permit application and the opportunity for public comment in a newspaper of general circulation in the state and also in a newspaper of general circulation in the county where the operation for which the application is submitted is located;
  - (c) allow the public to submit written comments to the executive secretary within 15 days after date of publication;
  - (d) consider timely submitted public comments and the criteria established in this part and by rule in determining whether to grant the permit; and
  - (e) send a written copy of the decision to the applicant and to persons submitting timely comments under Subsection (1)(c).
- (2) The executive secretary's decision under this section may be appealed to the board only within the 30 days after the day the decision is mailed to the applicant.

**19-6-714. Recycling fee on sale of oil.** (1) On and after October 1, 1993, a recycling fee of \$.04 per quart or \$.16 per gallon is imposed upon the first sale in Utah by a lubricating oil vendor of lubricating oil. The lubricating oil vendor shall collect the fee at the time the lubricating oil is sold.

- (2) A fee under this section shall not be collected on sales of lubricating oil:
- (a) shipped outside the state;
  - (b) purchased in five-gallon or smaller containers and used solely in underground mining operations; or
  - (c) in bulk containers of 55 gallons or more.
- (3) This fee is in addition to all other state, county, or municipal fees and taxes imposed on the sale of lubricating oil.
- (4) The exemptions from sales and use tax provided in Section **59-12-104** do not apply to this part.
- (5) The commission may make rules to implement and enforce the provisions of this section.

**19-6-715. Recycling fee collection procedures.** (1) The lubricating oil vendor shall pay the fee collected under Section **19-6-714** to the commission on or before the last day of the month following the calendar quarter in which the sale occurs.

- (2) The lubricating oil vendor may retain a maximum of 2% of the recycling fee it collects under Section **19-6-714** for the costs of collecting the fee.
- (3) The payment of the fee to the commission shall be accompanied by a form provided by the commission.

**19-6-716. Fee collection by commission.** (1) The commission shall administer, collect, and enforce the fee authorized under Section **19-6-714** pursuant to the same procedures used in the administration, collection, and

enforcement of the sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, and Title 59, Chapter 1, General Taxation Policies.

- (2) The commission may retain a maximum of 2-1/2% of the fee collected under Section **19-6-715** for the costs of rendering its services under this part.

**19-6-717. Used oil collection incentive payment.** (1)

(a) The division shall pay a recycling incentive to registered DIYer used oil collection centers and curbside collection programs approved by the executive secretary for each gallon of used oil collected from DIYer used oil generators on and after July 1, 1994, and transported by a permitted used oil transporter to a permitted used oil processor, refiner, burner, or to another disposal method authorized by board rule.

(b) Payment of the incentive is subject to Section **19-6-720** regarding priorities.

(2) The board shall by rule establish the amount of the payment, which shall be \$.16 per gallon unless the board determines the incentive should be:

- (a) reduced to ensure adequate funds to meet priorities set in Section **19-6-720** and to reimburse all qualified operations under this section; or
- (b) increased to promote collection of used oil under this part and the funds are available in the account created under Section **19-6-719** after meeting the priorities set in Section **19-6-720**.

**19-6-718. Limitations on liability of operator of collection center.** (1) Subject to Subsection (2), a person

may not recover from the owner, operator, or lessor of a DIYer used oil collection center any costs of response actions at another location resulting from a release or threatened release of used oil collected at the center if the owner, operator, or lessor:

- (a) operates the DIYer used oil collection center in compliance with this part and rules made under this part and the executive secretary upon inspection finds the center is in compliance with this part and rules made under this part;
- (b) does not mix any used oil collected with any hazardous waste or PCBs or with any material that would render the resulting mixture as a hazardous waste;
- (c) does not knowingly accept any used oil containing hazardous waste or PCBs;
- (d) ensures the used oil is transported from the center by a permitted used oil transporter; and
- (e) complies with Section 114(c) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(2) (a) This section applies only to that portion of a used oil collection center used for the collection of DIYer used oil under this part.

(b) This section does not apply to willful or grossly negligent activities of the owner, operator, or lessor in operating the DIYer used oil collection center.

(c) This section does not affect or modify in any



way the obligations or liability of any person other than the owner, operator, or lessor under any other provisions of state or federal law, including common law, for injury or damage resulting from a release of used oil or hazardous waste.

(d) For the purposes of this section, the owner, operator, or lessor of a DIYer used oil collection center may presume a quantity of not more than five gallons, except under Subsection (2)(e), of used oil accepted from a member of the public is not mixed with a hazardous waste or PCBs if:

(i) the oil is accepted in accordance with the inspection and identification procedures required by board rule; and

(ii) the owner, operator, or lessor operates the DIYer used oil collection center in good faith and in compliance with this part and rules made under this part.

(e) The owner, operator, or lessor of a DIYer used oil collection center may claim the presumption under Subsection (2)(d) for a quantity of more than five gallons but not more than 55 gallons, if the quantity received is:

(i) from a farmer exempted under Subsection **19-6-708** (1)(b);

(ii) generated by farming equipment; and

(iii) handled in accordance with all requirements of this section.

(f) This section does not affect or modify the obligations or liability of any owner, operator, or lessor of a DIYer used oil collection center regarding that person's services or functions other than accepting DIYer used oil under this part.

**19-6-719. Used oil collection account.** There is created in the General Fund a restricted account known as the Used Oil Collection Administration Account. All money received by the state from the recycling fee placed on lubricating oil under this part, all permit fees, all penalties imposed under this part, and all money received as a grant or donation to be used for the administration of this part shall be placed in this account to be appropriated to the division for the management of DIYer used oil under this part subject to the priorities in Section **19-6-720**.

**19-6-720. Grants and donations -- Support for programs -- Priorities.** (1) The division may solicit or request and receive gifts, grants, donations, and other assistance from any source. Funds or resources received shall be deposited in the account created in Section **19-6-719** and shall be appropriated to the division for the management of DIYer used oil under this part subject to priorities set in Subsection (2).

(2) Appropriations received by the division shall be expended, as available, for the management of DIYer used oil under this part in the following order of priority:

(a) first, division and board costs of implementation;

(b) second, recycling incentive payments under Section **19-6-717**;

(c) third, public education programs;

(d) fourth, awarding grants as funds are available for the establishment of the following, with emphasis on providing used oil collection facilities and programs in rural areas:

(i) used oil collection centers; and

(ii) curbside used oil collection programs, including costs of retrofitting trucks, curbside containers, and other costs of curbside collection programs; and

(e) fifth, provide funding to local health departments for enforcement of the management of DIYer used oil under this part in coordination with the board.

(3) In awarding grants under Subsection (2)(d), the board shall work with governmental entities in areas of the state where used oil collection centers are limited or do not exist, or where public access to the centers is limited, to promote the establishment of DIYer used oil collection centers.

**19-6-721. Violations -- Proceedings -- Orders.** (1) A person who violates any provision of this part or any order, permit, rule, or other requirement issued or adopted under this part is subject in a civil proceeding to a penalty of not more than \$10,000 per day for each day of violation, in addition to any fine otherwise imposed for violation of this part.

(2) (a) The board may bring suit in the name of the state to restrain the person from continuing the violation and to require the person to perform necessary remediation.

(b) Suit under Subsection (2)(a) may be brought in any court in the state having jurisdiction in the county of residence of the person charged or in the county where the violation is alleged to have occurred.

(c) The court may grant prohibitory and mandatory injunctions, including temporary restraining orders.

(3) When the executive secretary finds a situation exists in violation of this part that presents an immediate threat to the public health or welfare, the executive secretary may issue an emergency order under Title 63, Chapter 46b, Administrative Procedures Act.

(4) All penalties collected under this section shall be deposited in the account created in Section **19-6-719**.

**19-6-722. Criminal penalties.** (1) A violation of any applicable provision of this part is a class A misdemeanor, except:

(a) any violation involving hazardous waste is governed by provisions of this chapter that address hazardous waste;

(b) any violation of Section **19-6-714** or **19-6-715** regarding the recycling fee is subject to penalties authorized under Section **19-6-716**.

(2) Any person who knowingly conducts any activities identified in Subsection **19-6-113**(3) regarding hazardous waste in conjunction with any operations under this part is subject to the enforcement actions and penalties identified in Subsection **19-6-113**(4).

(3) All penalties collected under this section shall be deposited in the account created in Section **19-6-719**.

**19-6-723. Local ordinances regarding used oil.** Any political subdivision of the state may enact and enforce ordinances regarding the management of used oil that are consistent with this part.